

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 20-690V
UNPUBLISHED

NEWBERRY FRIAS
on behalf of her son, N.D., a minor,
Petitioner,
v.
SECRETARY OF HEALTH AND
HUMAN SERVICES,
Respondent.

Chief Special Master Corcoran
Filed: November 9, 2020
Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Rotavirus Vaccine;
Intussusception

John Robert Howie, Howie Law, PC, Dallas, TX, for petitioner.

Amanda Pasciuto, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

On June 9, 2020, Petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that N.D. suffered an intussusception requiring surgery as a result of a rotavirus vaccine administered on June 8, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On November 9, 2020, Respondent filed his Rule 4(c) report in which he concedes that Petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, Respondent concludes that “[P]etitioner is entitled to a presumption of causation because N.D.’s intussusception meets the criteria of a vaccine table injury.” *Id.*

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

at 4. Respondent states that N.D.'s intussusception "resulted in inpatient hospitalization and surgical intervention." *Id.* Respondent further agrees that Petitioner has satisfied all legal prerequisites for compensation under the Act. *Id.*

In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master